DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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Notice Regarding Use of Truck-mounted Coriolis Meters

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of clarification.

SUMMARY: This notice clarifies the Bureau of Land Management's (BLM) position on the use of truck-mounted Coriolis (TMC) meters under the BLM's oil measurement regulations published on November 17, 2016.

DATES: This interpretation takes effect on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Amanda Eagle, Production Management Team Lead for Division of Fluid Minerals, Bureau of Land Management, Headquarters Office, 301 Dinosaur Drive, Santa Fe, NM 87508; phone 907-538-2300; email pmt@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact Ms. Eagle. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This notice clarifies the BLM's position on the use of TMC meters under its oil measurement regulations found at 43 CFR subpart 3174. Although the preamble to the final rule establishing the oil measurement regulations indicated that TMC meters were not authorized, such an interpretation is not necessarily consistent with the plain language of the regulations.

Today, the BLM is resolving this inconsistency by adopting an interpretation of the oil measurement regulations that allows for the use of TMC meters if such use is

conducted in accordance with the requirements for a Coriolis measurement system (CMS).

This clarification of the BLM's oil measurement regulations will maintain the efficacy of the regulations in ensuring measurement accuracy and a fair return to the American public.

BACKGROUND: Measurement of oil by TMC meters involves connecting a flexible hose from a truck to the sales valve on an oil storage tank. The seal on the sales valve is then broken, allowing oil to flow from the tank to the truck. As the oil enters the truck, it is measured by a Coriolis meter. When the oil transfer is complete, the sales valve at the tank is sealed and the hose is walked-back to the truck, which forces the last of the oil through the meter.

Oil measurement from Federal and Indian mineral leases was governed by BLM's Onshore Order No. 4 (54 FR 8086 (Feb. 24, 1989)) from 1989 to January 2017. TMC meters were not an authorized method of measurement under Onshore Order No. 4. However, at least one BLM Field Office (North Dakota) issued variances to allow for the use of TMC meters beginning in July 2004. A November 2008 BLM Instruction Memorandum (IM) explained that, although "the use of truck mounted meters for measuring oil from tanks in lieu of tank gauging is a Best Management Practice (BMP) for oil measurement," TMC meters "must be proven to be at least as accurate as the standards set in (Onshore Order 4)" before an exception from Onshore Order No. 4 can be issued.[1]

Prompted by external and internal oversight reviews finding many of the BLM's production measurement and accountability policies to be outdated and inconsistently applied, the BLM promulgated new site security, oil measurement, and gas measurement

[1] IM 2009-027, "The Feasibility Use of Truck Mounted Meters for Oil Measurement Onshore" (Nov. 26, 2008).

regulations in November 2016. The new oil measurement regulations were codified as subpart 3174 of a new part 3170 in Title 43 of the Code of Federal Regulations (81 FR 81462 (Nov. 17, 2016)).

Under subpart 3174, three methods of oil measurement are authorized: measurement by tank gauging,[2] measurement by a lease automatic custody transfer (LACT) system,[3] and measurement by a CMS.[4] Section 3174.4 sets forth specific measurement performance requirements with respect to uncertainty, bias, and verifiability that apply to all measurement methods under subpart 3174. Additional requirements specific to measurement by a CMS are detailed in §§ 3174.9 and 3174.10.

Subpart 3174 defines a "Coriolis measurement system (CMS)" as "a metering system using a Coriolis meter in conjunction with a tertiary device, pressure transducer, and temperature transducer in order to derive and report gross standard oil volume. A CMS system provides real-time, on-line measurement of oil."[5]

Section 3174.9 sets forth a number of "general requirements" for a CMS: the CMS must meet the performance requirements of § 3174.4; the specific make, model, and size of the Coriolis meter and associated software must have been reviewed and approved by the BLM's Production Measurement Team (PMT); the CMS must be "proven" in accordance with § 3174.11; measurement tickets must be completed under § 3174.12(b); the CMS must be composed of specific components meeting specified requirements; API oil gravity must be reported using a specified method; and, net standard volume must be calculated in accordance with certain API guidelines. Section 3174.10 contains CMS operating requirements pertaining to minimum electronic pulse levels, meter specifications, totalizers, meter zero value verification, required on-site

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[2] 43 CFR 3174.5, 3174.6.
[3] 43 CFR 3174.7, 3174.8.
[4] 43 CFR 3174.9, 3174.10.
[5] 43 CFR 3174.1(a). "Tertiary device" means, "for a CMS, the flow computer and associated memory, calculation, and display functions." *Id.*

information, audit trails, and data protection.

The subpart 3174 regulations do not specifically address the use of TMC meters. However, the preamble to the final rule did address TMC meters as follows:

> One commenter said the final rule should allow operators to use truck-mounted CMS and submitted summarized data to support their view. The summarized data indicates significant differences between manual-gauged volumes and truck-mounted Coriolis-metered volumes. A summary of these volume differences indicated that the truck-mounted Coriolis meter measured as much as 22.44 bbl less that [sic] the manual gauge measured. Missing from the data is the volume of the entire load. The BLM needs this information to understand how significant these variations are. The data also indicates significant differences in measured oil temperature (as much as 23 °F) and gravity (as much as 5 degrees) when compared to manual methods. The commenter did not explain these differences or explain or justify the data submitted. The BLM decided not to include the use of truck-mounted Coriolis metering in the final rule. Operators may seek approval to use the truck-mounted option through the PMT approval process, which is outlined in § 3174.13. The rule was not changed based on this comment.

81 FR 81485.

Thus, in the preamble, the BLM expressed an intent not to authorize the use of TMC meters as a CMS, and implicitly categorized TMC meters as a "method of oil measurement other than tank gauging, LACT system, or CMS" that requires prior BLM approval.[6]

DISCUSSION:

The BLM is revising the position it took regarding TMC meters, as described in

[6] Subpart 3174 allows for a "method of oil measurement other than tank gauging, LACT system, or CMS" to be used where it has been approved the by the BLM. 43 CFR 3174.13.

the final rule preamble language described earlier, because it believes that the text of subpart 3174 supports an interpretation that allows for the use of TMC meters. Because TMC meters involve the use of "a Coriolis meter in conjunction with a tertiary device, pressure transducer, and temperature transducer in order to derive and report gross standard volume of oil," and "provides real-time, on-line measurement of oil," they meet the definition of a CMS in § 3174.1. And, TMC meters can comply with subpart 3174's requirements for a CMS. In particular, TMC meters are capable of meeting the specific performance requirements for uncertainty, bias, and verifiability set forth in § 3174.4 (as required by § 3174.9(a)). The BLM also believes that TMC meters are capable of complying with § 3179.9, which prescribes "general requirements and components" for a CMS, and § 3179.10, which sets forth the "operating requirements" for a CMS. Therefore, after considering TMC meters in light of the plain text of subpart 3174, the BLM has concluded that TMC meters are a type of a CMS and thus are an acceptable method of oil measurement as long as the TMC meters meet the requirements of subpart 3174.

The BLM acknowledges that the preamble to the 3174 regulations stated that the BLM was not including TMC meters in the final rule and that operators could seek BLM approval of TMC meters through the PMT approval process. The BLM no longer agrees with that interpretation of subpart 3174. In the first instance, while the preamble to a rule may be used to inform the proper interpretation of ambiguous regulation text, it cannot override the regulation's plain meaning. *See Wyoming Outdoor Council v. U.S. Forest Service*, 165 F.3d 43, 53 (D.C. Cir. 1999) (noting that "language in the preamble of a regulation is not controlling over the language of the regulation itself"); *BHP Minerals International, Inc. et al*, 139 IBLA 269, 310 (1997) ("Where there is a conflict between 'intent' as expressed in a preamble and as ultimately explicated in the actual language of the regulation, it is the language of the regulation which is determinative."). As

explained earlier, the plain text of subpart 3174 indicates that TMC meters are a type of a CMS, and the text of the regulation should control. In addition, the BLM has reconsidered the rationale underlying the interpretation espoused in the preamble. The view of TMC meters expressed in that preamble passage appears to be inconsistent with the view expressed by the BLM in the 2008 IM stating that "the use of truck mounted meters for measuring oil from tanks in lieu of tank gauging is a Best Management Practice (BMP) for oil measurement." With respect to the measurement data analyzed, the preamble passage does not address the possibility that the difference in results might be attributable to TMC meters' measuring capacity being more accurate than manual tank gauging. It would seem incongruous to conclude that measurement by a truck-mounted Coriolis meter would be unacceptably inaccurate where the BLM would accept measurement by the same Coriolis meter in a stationary CMS. For the foregoing reasons, the BLM is now clarifying that it interprets subpart 3174 as allowing for the use of TMC meters, as long as such use is conducted in accordance with the subpart 3174 requirements for a CMS.

(Authority: 30 U.S.C. 189; 30 U.S.C. 1751(a), 43 CFR 3170.1)

Rebecca Good,

Acting Chief, Division of Fluid Minerals.

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